

Department of Homeland Security

§ 315.1

printed matter advocating communism.

§ 313.3 Statutory exemptions.

(a) *General.* An applicant shall bear the burden of establishing that classification in one of the categories listed under § 313.2 is not a bar to naturalization.

(b) *Exemptions.* Despite membership in or affiliation with an organization covered by § 313.2, an applicant may be naturalized if the applicant establishes that such membership or affiliation is or was:

(1) Involuntary;

(2) Without awareness of the nature or the aims of the organization, and was discontinued if the applicant became aware of the nature or aims of the organization;

(3) Terminated prior to the attainment of age sixteen by the applicant, or more than ten years prior to the filing of the application for naturalization;

(4) By operation of law; or

(5) Necessary for purposes of obtaining employment, food rations, or other essentials of living.

(c) *Awareness and participation—(1) Exemption applicable.* The exemption under paragraph (b)(2) of this section may be found to apply only to an applicant whose participation in the activities of an organization covered under § 313.2 was minimal in nature, and who establishes that he or she was unaware of the nature of the organization while a member of the organization.

(2) *Exemptions inapplicable.* The exemptions under paragraphs (b)(4) and (b)(5) of this section will not apply to any applicant who served as a functionary of an organization covered under § 313.2, or who was aware of and believed in the organization's doctrines.

(d) *Essentials of living—(1) Exemption applicable.* The exemption under paragraph (b)(5) of this section may be found to apply only to an applicant who can demonstrate:

(i) That membership in the covered organization was necessary to obtain the essentials of living like food, shelter, clothing, employment, and an education, which were routinely available to the rest of the population—for pur-

poses of this exemption, higher education will qualify as an essential of living only if the applicant can establish the existence of special circumstances which convert the need for higher education into a need as basic as the need for food or employment; and,

(ii) That he or she participated only to the minimal extent necessary to receive the essential of living.

(2) *Exemption inapplicable.* The exemption under paragraph (b)(5) of this section will not be applicable to an applicant who became a member of an organization covered under 313.2 to receive certain benefits:

(i) Without compulsion from the governing body of the relevant country; or

(ii) Which did not qualify as essentials of living.

§ 313.4 Procedure.

In all cases in which the applicant claims membership or affiliation in any of the organizations covered by § 313.2, the applicant shall attach to the application a detailed written statement describing such membership or affiliation, including the periods of membership or affiliation, whether the applicant held any office in the organization, and whether membership or affiliation was voluntary or involuntary. If the applicant alleges that membership or affiliation was involuntary, or that one of the other exemptions in § 313.3 applies, the applicant's statement shall set forth the basis of that allegation.

PART 315—PERSONS INELIGIBLE TO CITIZENSHIP: EXEMPTION FROM MILITARY SERVICE

Sec.

315.1 Definitions.

315.2 Ineligibility and exceptions.

315.3 Evidence.

315.4 Exemption treaties.

AUTHORITY: 8 U.S.C. 1103, 1443.

SOURCE: 56 FR 50483, Oct. 7, 1991, unless otherwise noted.

§ 315.1 Definitions.

As used in this part:

Exemption from military service means either: